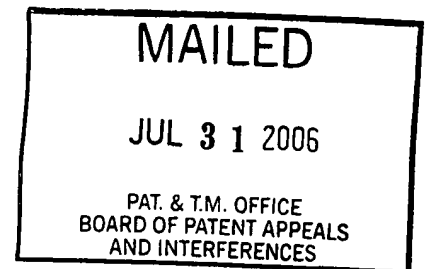


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AKIRA MASAOKA and ATSUSHI SHIMOISHI

Application No. 10/605,843



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 13, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On January 29, 2004, appellants filed an Information Disclosure Statement (IDS). It is not clear from the record whether the examiner considered the IDS submitted or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Also, the examiner has mailed an examiner's answer on March 2, 2006. In the Evidence Relied Upon section, page 2, paragraph (8), the examiner has stated, "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that

Application No. 10/605,843

references were applied to the statement of rejections in the Grounds of Rejection section of the examiner's answer. Before further review, the examiner must submit a corrected examiner's answer that will include in the Evidence Relied Upon section, the references mentioned in the statement of rejections. See the Manual of Patent Examining Procedure (MPEP) §1207.02, page 1200-29.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) consideration of the Information Disclosure Statement filed January 29, 2004; 2) appropriate notification by the examiner to appellants of such consideration; 3) vacate the examiner's answer and issue a revised Examiner's Answer having the missing references listed under the Evidence Relied Upon section; and 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



Dale M. Shaw
Deputy Chief Appeal Administrator
(571) 272-9797

cc: Ernest A. Beutler, Attorney at Law
10 Rue Marseille
Newport Beach, CA 92660

DMS/tdl